

# Notice of Allowability

Application No.

09/800,488

Examiner

David Lazaro

Applicant(s)

TAKAHASHI ET AL.

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 10/01/2007.
2. ☒ The allowed claim(s) is/are 1-9.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All b) ☐ Some\* c) ☐ None of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.


**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
SAMIH NAJJAR  
SUPERVISOR, PATENT EXAMINER

  
David Lazaro  
January 7, 2008

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Thomas Jones (53,908) on January 7, 2008.

The application has been amended as follows:

Please enter the attached amendment (3 pages) which amends claims 1, 8 and 9.

### ***Examiner's Comments***

2. The examiner's amendment clarifies the subject matter of "a communication data size" and "a receivable data size". Additionally, the examiner's amendment resolves a potential 101 issue in relation to considering what the result is when the server is not judged to be under a high load.

### ***Allowable Subject Matter***

3. Claims 1-9 are allowed.

4. The following is an examiner's statement of reasons for allowance: In addition to applicant's remarks filed 10/01/2007, the primary reasons for allowance are the

inclusion of the following limitations in each of the independent claims directed towards network server load detection:

“ detecting a change in the communication data size of the at least one connection of the client and server, wherein the communication data size of the connection is a total packet size per connection over a set measurement time;  
recording a maximum size value of the communication data size of the at least one connection;  
judging, if the detected change of the communication data size of the at least one connection decreases below a predetermined proportion of the recorded maximum size value, that said server is under a high load;” (from claim 1, similar limitations in each independent claim)

This subject matter is not found in the prior art, nor is it obvious in view of the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”


Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Lazaro whose telephone number is 571-272-3986. The examiner can normally be reached on 8:30-5:00 M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



David Lazaro  
January 7, 2008



SALEH NAJJAR  
SUPERVISOR, PATENT EXAMINER

1. (Currently Amended) A network server load detection method comprising:  
monitoring a communication at a point between a client and a server, the  
communication being from the client to the server, and the communication  
including at least one connection having a communication data size;

detecting a change in the communication data size of the at least one  
connection of the client and server, wherein the communication data size of the  
connection is a total packet size per connection over a set measurement time;

recording a maximum size value of the communication data size of the at  
least one connection;

judging, if the detected change of the communication data size of the at  
least one connection decreases below a predetermined proportion of the  
recorded maximum size value, that said server is under a high load; ~~and~~

managing the load of the server according to the judgment of the high  
load; and

repeating the detecting and recording steps in response to the server not  
being judged to be under a high load.

8. (Currently Amended) A network server load detection method comprising:

monitoring a communication at a point between a server and a client, the communication being from the server to the client, and counting a receivable data size and a connection count of which said server notifies said client;

~~obtaining~~ calculating the receivable data size per connection as a server load, wherein the receivable data size per connection is a total window size per connection over a set measurement time;

storing a maximum value of the receivable data size per connection of the monitored communication; ~~and~~

judging, if the receivable data size per connection becomes ~~small with~~ respect to the smaller than a predetermined proportion of the stored maximum value, that said server is under a high load; ~~and~~

managing the load of the server according to the judgment of the high load; and

repeating the calculating and storing steps in response to the server not being judged to be under a high load.

9. (Currently Amended) A network server load detection system for monitoring a communication at a point between a client and a server, the communication being from the client to the server, and detecting a load state of said server, comprising:

data size calculating means for calculating a size of communication data per connection, wherein the communication data size of the connection is a total packet size per connection over a set measurement time;

storage means for detecting a change in the communication data size per connection of the client and server, and storing a maximum value of the communication data size per connection;

load detection means for detecting a high load of said server when the detected change of the communication data size per connection ~~at that point of time~~ becomes smaller than a predetermined proportion of the maximum value;  
and

load management means for managing the load of the server according to the detection of the high load.